

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION



ARTHUR J. JONES, JR.

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2:18cv84-KS-MTP

CITY OF HATTIESBURG,
Detective Sergeant NEAL ROCKHOLD, Individually
and as the agent of the Defendant, City of Hattiesburg

DEFENDANTS

NOTICE OF REMOVAL

Defendants, City of Hattiesburg and Detective Sergeant Neal Rockhold, pursuant to 28 U.S.C. §§ 1441 and 1446, file this Notice of Removal of the captioned action *Arthur J. Jones, Jr. v. City of Hattiesburg and Detective Sergeant Neal Rockhold*; No. H18-0073 on the docket of the Circuit Court of Forrest County, Mississippi, and in support of its Notice of Removal, Defendants would respectfully show:

FACTS

1. On May 1, 2018, Plaintiff commenced this action in the Circuit Court of Forrest County, Mississippi. Plaintiff's Complaint alleges he was wrongfully arrested for murder. These claims uniformly arise out of Plaintiff's assertion that the City of Hattiesburg, Mississippi and Detective Neal Rockhold unjustifiably arrested Plaintiff on or about July 7, 2015. His claims are asserted pursuant to 42 U.S.C. § 1983. Certified copies of Court pleadings in State court are attached hereto as composite exhibit "A" along with a copy of the docket sheet.

BASIS FOR REMOVAL

2. Filing of this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b)(1). Defendant was personally served with process in this matter on or about May 8, 2018.

3. The United States District Court for the Southern District of Mississippi has exclusive jurisdiction over the claims against defendants pursuant to 28 U.S.C. §§ 1331 and 1441(c) because this civil action arises or relates to a federal question arising under the Constitution of the United States of America.

4. Only state-court actions that originally could have been filed in Federal court may be removed to Federal court by the defendant.¹ *Caterpillar Inc. v. Williams*, 482 U.S. 386, 107 S.Ct. 2425, 2429, 96 L. Ed. 2d 318 (1987). Absent diversity of citizenship, federal-question jurisdiction is required.² *Id.* The presence or absence of federal-question jurisdiction is governed by the “well-pleaded complaint rule,” which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiffs properly pleaded complaint. *Id.* (citing *Gully v. First National Bank*, 299 U.S. 109, 112-113, 57 S.Ct. 96, 97-98, 81 L.Ed. 70 (1936)). Additionally, under Article 3, Section 2 of the Federal Constitution given Federal courts jurisdiction in cases arising under the Constitution, and laws of the United States, and treaties made under their authority.

5. It is facially apparent from a review of the Complaint that this action relates to a federal question arising under the United States Constitution, as it specifically seeks to assign liability to the Defendants for alleged violations of rights protected under the U.S. Constitution. The Complaint unequivocally states,

XVIII

Additionally the Defendants acting by and through its employees and investigators and pursuant to policy, custom or practice of the Defendants, violated the Plaintiffs’ rights

¹ Title 28 U.S.C. § 1441 provides:

“(a) Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

² Federal district courts have original jurisdiction over “all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

under the Mississippi Constitution and the United States Constitution including but not limited to Violation of Civil Rights Pursuant to Title 42 U.S.C. § 1983.

XIX

In committing the act complained of herein, Defendants acted under color of state law to deprive the Plaintiff of certain constitutionally protected right under the Fourth, Eighth, and Fourteenth Amendments to the Constitution of the United States including, but not limited to, the right to be free from unlawful arrest and imprisonment by persons acting under color of state law. In violating Plaintiffs' rights as set forth above and other rights that will be proven at trial, Defendants acted under color of state law and subjected Plaintiff to unlawful arrest and false imprisonment by Defendant, in violation of Plaintiffs' rights under the Fourth, Eighth, and Fourteenth Amendments to the Constitution of the United States.


6. As the Complaint unequivocally claims violations of federal constitutional rights, the requirement for a facial showing of a civil action arising under the Constitution is met. As a result, removal to Federal court is proper.

REMOVAL PROCEDURE

7. A copy of this Notice of Removal is being filed with the Circuit Court of Forrest County, Mississippi, and is being served on the parties and all counsel of record to this action. Certified copies of Court Pleadings in State Court are attached here as composite exhibit "A," along with a copy of the docket sheet.

WHEREFORE, Defendants, City of Hattiesburg and Detective Sergeant Neal Rockhold, hereby provide notice that this action is duly removed.

RESPECTFULLY SUBMITTED, this the 1st day of May, 2018.



L. Clark Hicks, MSB No. 8963
R. Lane Dossett, MSB No. 102927
Attorneys for Defendants

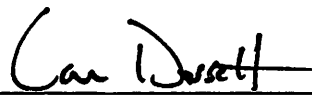
HICKS LAW FIRM, PLLC
L. Clark Hicks, MSB No. 8963
R. Lane Dossett, MSB No. 102927
211 South 29th Avenue, Suite 201 (39401)
Post Office Box 18350
Hattiesburg, MS 39404-8350
Telephone: (601)544-6770
Facsimile: (601)544-6775
Email: clark@hicksattorneys.com
lane@hicksattorneys.com

CERTIFICATE OF SERVICE

I, undersigned counsel, do hereby certify that I have this date forwarded a true and correct copy of the above foregoing **NOTICE OF REMOVAL** via United States Mail, first class, postage prepaid, facsimile and/or electronic mail under F.R.C.P. 5(b) to:

Tim C. Holleman, Esq.
Boyce Holleman & Associates
1720 23rd Avenue/Boyce Holleman Boulevard
Gulfport, MS 39501
T: 228.863.3142
F: 228.863.9829
E: tim@boyceholleman.com

This the 15th day of May, 2018.



L. CLARK HICKS, JR., MSB No. 8963
R. LANE DOSSETT, MSB No. 102927
Attorneys for Defendants